

CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795	Hearing Date/Agenda Number 2/26/03 Item: 3.h.
STAFF REPORT	File Number CP01-057
	Application Type Conditional Use Permit
	Council District 1
	Planning Area West Valley
	Assessor's Parcel Number(s) 403-33-002

PROJECT DESCRIPTION	Completed by: Darren McBain
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Location: Southeast corner of Saratoga Avenue and Campbell Avenue

Gross Acreage: 0.7	Net Acreage: 0.5	Net Density: N/A
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Existing Zoning: CG Commercial General	Existing Use: Gasoline service station
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Proposed Zoning: No change	Proposed Use: Gasoline station with car wash facility
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GENERAL PLAN	Completed by: DM
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Land Use/Transportation Diagram Designation Regional Commercial	Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations
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SURROUNDING LAND USES AND ZONING	Completed by: DM
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North: Shopping Center	CG Commercial General
East: Shopping Center	CP Commercial Pedestrian
South: Shopping Center	CG Commercial General
West: Shopping Center	CG Commercial General

ENVIRONMENTAL STATUS	Completed by: DM
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<input type="checkbox"/> Environmental Impact Report found complete <input type="checkbox"/> Mitigated Negative Declaration	<input checked="" type="checkbox"/> Exempt <input type="checkbox"/> Environmental Review Incomplete
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FILE HISTORY	Completed by: DM
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Annexation Title: Winchester No. 16	Date: November 13, 1959
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PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION		
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() Approval (X) Approval with Conditions () Denial	Date:	Approved by: _____ <input type="checkbox"/> Action <input checked="" type="checkbox"/> Recommendation
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APPLICANT/OWNER/DEVELOPER

Chevron USA, Inc.
6001 Bollinger Canyon Road
San Ramon, CA 94583

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: DM

Department of Public Works

See attached memorandum.

Other Departments and Agencies

None received.

GENERAL CORRESPONDENCE

City Council Policy 6-10: Drive-Through Uses

City Council Policy for Evaluation of 24-Hour Uses

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Chevron USA, is requesting a Conditional Use Permit to allow demolition of an existing service station building and construction of an approximately 2,100-square foot automatic drive-through car wash facility. The proposal includes 24-hour operation of the “gas station” component of the proposal, and business hours of 7:00 AM to 10:00 PM for the car wash. Car washes and 24-hour land uses are conditional uses in the CG Zoning District.

The subject site is a parcel located at the southeast corner of Saratoga Avenue and Campbell Avenue, contiguous to the El Paseo de Saratoga shopping center. Surrounding land uses are commercial in nature, including West Valley Shopping Center (under construction) to the north, Westgate Shopping Center to the east, El Paseo de Saratoga to the south, and a bank and other commercial uses to the west. The nearest residential property is located approximately 1,000 feet away in several directions.

Project Description

The project consists of demolition of an existing 1,150-square-foot service station building and construction of an automatic drive-through car wash facility. The facility would remain a service station, with the existing fuel dispensers and tanks removed and replaced with new equipment. The proposed building is a one-story, approximately 2,100-square foot structure that includes a 600-square-foot vending machine and sales area (see Analysis section, below). The project includes addition of relatively substantial areas of landscaping on the site. The number of driveways is proposed to be reduced from four to two (see Analysis and Conditions of Approval).

GENERAL PLAN CONFORMANCE

The proposed commercial use is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designation of Regional Commercial.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that, under the provisions of Section 15332 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act. Per the applicable CEQA Guidelines, projects may be characterized as in-fill development if they meet the conditions described below:

1. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
2. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
3. The project site has no value as habitat for endangered, rare, or threatened species.
4. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
5. The site can be adequately served by all required utilities and public services.

The proposed project adequately meets these criteria, in that it conforms to the site's Zoning and General Plan designations, and is located on a small site with no habitat value in an urbanized area. The project will not result in any significant traffic, noise, air quality, or water quality impacts (see additional discussion below), and can be adequately served by all required utilities and public services.

Noise

The proposed car wash is located approximately 1,000 feet from the nearest residences located on San Palo Court and Elmwood Drive. No other noise-sensitive land uses are located in close proximity to the subject site. Under these circumstances, a project-specific noise assessment was not required for this project. A noise assessment was prepared for a recently approved similar project (File No. PDC01-036) for another Chevron service station/car wash at the corner of Bascom and Camden Avenues with similar equipment and facilities. The noise report for that project determined that the project-generated noise exposure would be approximately 64 dB DNL.

The proposed project will result in similar noise exposures. Although this noise level exceeds the General Plan's outdoor noise guideline of 60 dB DNL, there are no sensitive noise receptors nearby that would be within audible distance of noise from the proposed project. Noise from the project would be relatively minor in comparison to traffic noise at this relatively busy intersection of two four-lane arterials. The noise report for the previous similar project (in a similar ambient noise environment) estimated that the car wash would add 2 dB DNL to the existing ambient noise level. This increase is deemed insignificant, as any single increase of less than 3 dB DNL above an existing ambient noise environment is generally considered to be imperceptible.

The design of this project includes measures to minimize the noise associated with car wash equipment (i.e., the manufacturer's "Quietzone" drier silencing system). Potential noise from the proposed car wash would also be attenuated and buffered by the large commercial buildings between the site and many of the closest residences (approximately 1,000 feet distance).

Traffic

The site is currently developed with a gasoline service station. In addition to the car wash facility, the project includes removal of the two existing fuel dispensers and placement of four new fuel dispensers on the site. The Director of Public Works has determined that the proposed project does not represent a significant intensification of the site from a traffic perspective, and will not significantly affect the existing level of service at this intersection. Therefore, a formal traffic study was not required for this project.

Air Quality

The proposed project does not include any equipment or activities that would generate significant levels of air pollution.

Water Quality

Gas stations' underground storage tanks have the potential to leak and contaminate groundwater. However, such failures are rare with modern equipment, and the proposed project includes removal and replacement of the existing tanks. Gas stations are regulated by state and local environmental agencies, which require monitoring and remediation when leaks or contamination are detected. The potential risk that an underground storage tank "could" leak and affect water quality is not considered a significant impact for purposes of CEQA.

ANALYSIS

The proposed project was analyzed for conformance to the following: 1) Zoning Ordinance, 2) Commercial Design Guidelines, 3) Council Policy 6-10: Drive-Through Uses, and 4) Council Policy for Evaluation of 24-Hour Uses. As described in greater detail below, the project substantially conforms to these policy documents, with the exception of the proposed driveway widths. Staff's recommendation of approval is conditioned upon narrowing the proposed driveways from 45 feet to 32 feet.

Zoning Ordinance

The project proposes a total of six parking spaces and complies with the applicable parking requirements of one space per employee, one space adjacent to air/water service, and one space for general use. The project conforms to the setback and height standards for the CG Commercial General Zoning District. The project does not include repair facilities or uses.

The Zoning Ordinance prohibits the sale of "food, groceries, and alcoholic beverages" in conjunction with a gasoline service station (i.e., gas station "minimarts"). However, "this limitation does not apply to the retail sale of prepackaged soft drinks, cigarettes, and snack foods from automatic vending machines." The sale of other retail items other than food drink is, likewise, allowed by right. The plans for this project include an approximately 600-square-foot "vending machine" area that is somewhat larger than one might typically expect to see used for vending machines only. While vending machines and/or shelving for non-grocery retail items would be allowable uses, this area of the building does seem to have a certain potential to be used for minimart-type sales that would be in conflict with the current Zoning Ordinance's requirements. However, the proposed building configuration conforms to the Zoning Ordinance (no City regulations or policies attempt to identify an "appropriate" amount of indoor floor area for vending machines and non-grocery retail sales at gas stations).

Signs: The plans that were submitted for this project include a greater number of attached signage than would be allowed under the City's Sign Ordinance. Signs shown on the plans are conceptual only, and are not included in the approval of this permit. All new signs shall be addressed via a subsequent Permit Adjustment.

Commercial Design Guidelines

The proposed site plan is generally consistent with the Commercial Design Guidelines (CDGs) for service stations and car washes in terms of site organization, building location and design, drive-through orientation, parking, and site circulation.

The project includes the addition of significant areas of landscaping to the site, compared to the current configuration. The building is architecturally compatible with other nearby development, and is located so as to allow a relatively low degree of visibility from the street to the interior of the car wash. The treatment of the main building and the structural supports under the canopy includes variation and upgrades in order to add visual interest. An adequate amount of vehicle "stacking" area is provided for the car wash, and is located in a logical and efficient area where it will not impede other on-site circulation.

The project will reduce the number of driveway curb cuts on the site from four to two, thereby creating a more orderly circulation pattern and diminishing the potential for potentially dangerous vehicular "conflicts" at this intersection. This is a significant improvement over the existing situation. However, the proposed 45-foot width of the remaining driveways do not conform to the City's design standards for driveways serving commercial uses. Maximum driveway widths on a public street are in the purview of the Director of Public Works, and are not directly addressed by the CDGs, though they are an important element of site design.

The Director of Public Works has identified 32 feet as the appropriate width for driveways on this site. Planning staff supports this requirement. Extra-wide driveways are problematic, in that they allow higher-speed vehicle movements on and off the site and create a less-hospitable and potentially dangerous pedestrian environment on the sidewalk. Additionally, wider driveways diminish potential landscape opportunities which are often minimal at gas stations. Staff is mindful of the applicant's need for a truck circulation pattern that will allow efficient access to the underground fuel tanks. However, it is staff's opinion that the applicant should be able to accomplish that objective with driveways that conform to the 32-foot standard identified by the Director of Public Works. Alternatively, the truck circulation pattern should be further modified, as needed, to work with a 32-foot driveway width. Staff's recommendation of approval for this project includes a condition (see condition No. 2 below) that addresses this concern.

Council Policy 6-10: Drive-Through Uses / Council Policy for Evaluation of 24-Hour Uses

The proposed drive-through car wash addition to the existing service station is generally consistent with the Council Policy for Drive-Through Uses. The drive-through stacking lane provides adequate capacity for up to five (5) cars, as recommended in the Policy. The drive-through stacking lane is adequately situated to follow the property lines, so as not to cause overflow onto public streets. Other elements of the site design also substantially conform to the provisions of Policy 6-10 (see attached).

The applicant is proposing to operate both the fuel dispensers and the car wash on a 24-hour basis. The Drive-Through Policy states that "No drive-through portion of a land use shall operate after the hour of 10:00 P.M. when adjacent to residentially used, zoned, or General Planned properties. In this case, the nearest such property is located approximately 1,000 feet away. The 24-hour operation of car wash

equipment would, in many locations, be of great concern. Given the location and orientation of the proposed car wash, far from residential properties and buffered by other commercial land uses, noise from 24-hour use of the car wash seems to have a less-than-usual potential to adversely affect any nearby properties. However, the City Council's 24-Hour Policy clearly specifies that "Gasoline service stations shall not provide car wash service between the hours of 10:00 P.M. and 7:00 A.M." (pg. 6). The applicant has agreed to limit the hours of operation of the car wash to conform to this provision of the policy.

The proposal conforms to the other applicable provisions of the 24-Hour Policy as it relates to gasoline service stations, in that automobile repair services are not provided and restrooms would be accessible at all times.

PUBLIC OUTREACH

Notices for the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss potential concerns raised by members of the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following facts and findings in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Regional Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram
2. The project site is located on a 0.7-gross-acre parcel in the CG Commercial General Zoning District.
3. The project site is currently developed with a gasoline service station.
4. The proposed project consists of: A) demolition of the existing building, B) construction of a 2,100-square-foot gasoline service station and automatic drive-through car wash, and C) 24-hour operation of the service station and operating hours of 7:00 AM to 10:00 PM for the car wash.
5. Car washes and 24-hour land uses are conditional uses in the City's commercial zoning districts.
6. The proposed project has been determined to be exempt from environmental review.
7. The proposed project conforms to the applicable setbacks of the CG Commercial General Zoning District.
8. The site is located over 1000 feet from the closest residential use.
9. The project proposes 45 feet wide curb cuts.
10. The Commercial Design Guidelines recommend that driveway curb cuts be limited to 32' in width for gas stations.

11. The project, as proposed, includes a staff recommended condition that requires that the curb cuts be reduced in size from 45 feet to 32 feet in width prior to the issuance of a public works clearance. (see condition No. 2)

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the site's designation of Regional Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. As conditioned, the proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.
4. Under the provisions of Section 20.80.400(A) of the San José Municipal Code, except as specifically exempted by Section 20.80.450, no demolition permit or removal permit shall be issued unless and until a Development Permit which specifically approves such demolition or removal has been issued and has become effective pursuant to the provisions of Chapter 20.100.
 - a. This permit includes the demolition of an approximately 1,100-square-foot structure in the CG Commercial General Zoning District.
 - b. The Planning Commission has considered the following in evaluating the proposed demolition.
 - 1) The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition.
 - 2) The failure to approve the permit would jeopardize public health, safety or welfare.

- 3) Both inventoried and non-inventoried buildings, sites and districts of historical significance should not be negatively impacted.
 - 4) Rehabilitation or reuse of the existing building would not be feasible
 - 5) The approval of the demolition of the building should facilitate a project which is compatible with the surrounding neighborhood.
- c. Further, the Planning Commission concludes and finds, based on the analysis of the above facts, that:
- 1) The proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.
 - 2) The proposed project is in conformance with the California Environmental Quality Act.
 - 3) The benefits of permitting the demolition, removal or relocation of the subject building outweigh the impacts of the demolition, removal or relocation.
- d. Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission approves, pursuant to Section 20.80.440(B) of the San José Municipal Code, the demolition of the subject structure.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit, except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Except as noted in Condition #2, below, development of the site shall conform to approved development plans entitled "Chevron," (last revised February 11, 2003), on file with the Department of Planning Building and Code Enforcement.
2. **Adjustment Required.** Within 60 days, and prior to issuance of a Public Works clearance, the applicant is required, as a condition of approval of this permit, to secure and agree to implement a Permit Adjustment. The adjustment shall include narrowing of the proposed driveways from 45 feet to 32 feet in width and associated modifications to the proposed landscaping, to the satisfaction of the Director of Planning. Failure to comply with this condition shall render this Permit null and void.
3. **Discretionary Review.** The Director of Planning maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Planned Development Permit incorporated by reference in this Permit in accordance with Section 20.44.200 of the San José Municipal Code.
4. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
5. **Signs.** No new signs are approved at this time. All proposed signs shall conform to the Sign Ordinance and shall be subject to approval by the Director of Planning via a subsequent Permit Adjustment. Signs shown on the plans for this Permit are conceptual only. Any existing signs on the site shall be removed.
6. **No Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
7. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
8. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
9. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
10. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
11. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored in full compliance with the City's Hazardous Material Ordinance and the Hazardous Material Management Plan for the site approved by the San José Fire Prevention Bureau.
12. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-11872) to the satisfaction of the Director of Public Works:
 - a. **Storm Sewer Area Fees.** In accordance with City Ordinance, all storm sewer area fees, sanitary sewer connection fees and sewer treatment plan connection fees, less previous credits, are due and payable.

- b. **Grading Permit.** A Grading Permit is required. An erosion control plan may also be required.
 - c. **Undergrounding Fees.** An In-Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Campbell Avenue prior to the issuance of a Public Works clearance. One hundred percent of the base fee in place at the time of the payment will be due. (Currently, the base fee is \$224. Per linear foot of frontage.
 - d. **Electroliers.** Relocate or replace electroliers as required.
 - e. **Street Improvements.** Repair or replace broken curb, gutter and sidewalk along the project frontages as required. Repair, overlay or reconstruct asphalt paving in street as required. Close unused driveway curb cuts. All new driveway curb cuts shall be limited to 32' in width. Dedicate the right-of way adjacent to both street frontages. Currently, the gas station property extends into the street.
 - f. **Minor Improvement Permit.** A permit shall be obtained to address items noted above.
 - g. **Adjustment Required.** Within 60 days, and prior to issuance of a Public Works clearance, the applicant is required, as a condition of approval of this permit, to secure and agree to implement a Permit Adjustment. The adjustment shall include narrowing of the proposed driveways from 45 feet to 32 feet in width and associated modifications to the proposed landscaping, to the satisfaction of the Director of Planning. Failure to comply with this condition shall render this Permit null and void.
13. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - b. *Construction Plans.* This permit file number, CP01-057, shall be printed on all construction plans submitted to the Building Division.
 - c. *Permit Adjustment.* Refer to condition No. 2.
14. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
15. **Street Cleaning and Dust Control.** During construction, the developer shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.

16. **Storm Water Discharge.** The applicant shall conform to the Non-Point Source Control requirement for storm water discharge associated with construction activity as required by the State Water Resource Control Board. Contact the Regional Water Quality Control Board at (415) 286-0968 for further information.
17. **Inlet Filters.** The project developer shall install inlet filters in all on-site storm drainage inlets. These filters shall be installed, maintained and replaced by a qualified consultant hired by the property owner. Copies of all inspection and maintenance records shall be provided to the City upon request. The project developer shall implement a maintenance program for these inlet filters that includes but is not limited to the following measures:
- a. Installation. The inlet filters shall be installed by a qualified individual in conformance with the manufacturer's specifications. Installation records shall be maintained by the project developer and subsequent property owner.
 - b. Maintenance Record. The property owner must keep a record available for inspection on the project site of all inspections and maintenance of the inlet filters.
 - c. Regular Sweeping. Paved surfaces subject to runoff shall be swept regularly during dry periods to remove dirt, silt and other loose debris.
 - d. Regular Inspections. The inlet filters shall be inspected monthly between September and April, and the absorbent material shall be replaced by a qualified individual as necessary to ensure the filters are functioning properly.
 - e. Replacement of Absorbent Material. The absorbent material shall be replaced by a qualified individual in conformance with the manufacturer's specifications. Care should be taken to avoid spilling the contaminated material into the drainage system.
 - f. Disposal of Used Absorbent Material. Used absorbent material shall be disposed of in conformance with all applicable local, state and federal regulations.
 - g. Replenishment of Absorbent Materials Supply. The property owner shall keep a sufficient amount of absorbent material on hand to replace the amount of installed absorbent material plus a reserve to handle emergencies.
18. **Storm Water Stenciling.** All drain inlets shall be labeled "No Dumping--Flows to Bay." Please contact the City of San José, Department of Public Works, at (408) 277-5161 to obtain free stencils.
19. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
20. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.

21. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
22. **Lighting.** Outdoor lighting on the site shall conform to the City's Outdoor Lighting Policy and shall use low-pressure sodium (LPS) lighting fixtures.
23. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
24. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
25. **Amplified Sound.** No amplified sound shall be audible from adjacent properties. All outdoor paging of employees shall be achieved with individual devices given to employees. No outdoor paging systems are to be installed.
26. **Mechanical Equipment.** All roof equipment shall be screened from view.
27. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
28. **Hours.** Car wash operation shall be limited to the hours between 8:00 a.m. and 9:00 p.m. All other operations shall be allowed to operate 24-hours.
29. **Restrooms, Air, and Water.** The restrooms, air, and water shall be kept available for public use during all hours of operation of the gas station.
30. **Vending Area.** Retail sale of prepackaged soft drinks, cigarettes, and snack foods shall occur from automatic vending machines only.
31. **Vehicle Repair.** Vehicle repair activities are not allowed under this permit.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.

2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

CP01-057.SR.2